

**BEFORE THE  
BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:	)	
	)	
<b>ROBERT R. GRAYSON</b>	)	No. AC-2003-13
1520 O'Farrell Street, #5	)	
San Francisco, CA 94115	)	OAH No. N 2003010557
	)	
	)	
Respondent.	)	
	)	

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**DECISION AFTER NONADOPTION**

John K. Markley, Administrative Law Judge, Office of the Administrative Hearings, State of California, heard this matter on April 16, 2003, in Oakland, California.

Jeanne C. Werner, Deputy Attorney General, represented complainant, the Board of Accountancy.

Respondent , Robert R. Grayson, was present and represented himself.

Evidence was received, the matter was submitted and the record was held open to allow respondent to provide documentary evidence of financial hardship. Documentary evidence of financial hardship was received from respondent and admitted into evidence. The record was closed on April 25, 2003.

The proposed decision of the administrative law judge was submitted to the Board of Accountancy (hereinafter "the Board") on May 8, 2003. After due consideration thereof, the Board declined to adopt said proposed decision and thereafter on August 6, 2003 issued an Order of Nonadoption and subsequently issued an Order Fixing Date for Submission of Written Argument. On November 26, 2003, the Board issued an Order Delaying Decision and Order Extending Date for Submission of Written Argument. The time for filing written argument in this matter having expired, written argument having been filed by complainant's attorney, the entire record, including the transcript of said hearing, having been read and considered, pursuant to Government Code Section 11517, the Board hereby makes the following decision and order:

## FACTUAL FINDINGS

1. Carol Sigmänn made and filed this Accusation in her official capacity as Executive Officer of the California Board of Accountancy, Department of Consumer Affairs ("Board").

2. On June 20, 1975, the Board issued Certificate Number CPA 21583 ("license") to respondent. This license expired on February 1, 1996, and the expired status continued through March 1, 2000. This license was renewed to inactive status on March 2, 2000 and the inactive status continued through November 21, 2000. On November 21, 2000, this license was converted to active status which continued to January 31, 2002. On January 31, 2002, this license expired and was not renewed.

From February 1, 1996 forward, respondent's license was on active status only from November 21, 2000 through January 31, 2002. During all other periods, the license was either expired or inactive.

### Renewing License to "Active" Status by Misrepresenting Continuing Education Compliance

3. Business and Professions Code section 498 provides that the Board may revoke, suspend or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit or knowing misrepresentation of material fact. California Code of Regulations, Title 16, section 94, provides that the failure to comply with continuing education requirements constitutes grounds for disciplinary action. California Code of Regulations, Title 16, section 89(k) provides that a licensee's willful making of any false or misleading statement, in writing, regarding continuing education shall constitute cause for disciplinary action under Business and Professions Code section 5100(b).

4. On November 21, 2000, respondent submitted the application entitled "License Status Conversion From Inactive to Active License Status" ("Application") to the Board, under penalty of perjury, seeking conversion of his "inactive" license to "active" status. In order to renew his license to active status, respondent was required to have completed 80 hours of required continuing education courses in the previous 24 months. Respondent's application represented that he had completed 92 hours of required continuing education.

5. The information contained in this Application was false, and known by respondent to be false, in that respondent had completed only 9 hours of the required continuing education; not the required 80 hours nor the claimed 92 hours. Of the 92 claimed hours, 8 hours were verified by Practical Training Institute and 1 hour was documented by Quality Assurance Service. As to all other claimed hours of education compliance, respondent was unable to document or verify these hours in any way and his explanations and excuses were not credible.

6. Herein, respondent improperly secured the renewal of his license to active status on November 21, 2000 by knowingly misrepresenting, through the use of false statements, his compliance with the continuing education requirements.

Engaging in Practice of Public Accountancy Without a Valid License

7. Business and Professions Code section 5050 provides that no person shall engage in the practice of public accountancy unless such person is the holder of a valid permit (license) issued by the Board. California Code of Regulations, Title 16, section 80(b) provides that the holder of an inactive license shall not engage in the practice of public accountancy. Respondent is prohibited from practicing public accountancy at any time his license had expired or was on inactive status. A violation of these codes and regulations constitutes grounds for imposition of discipline pursuant to Business and Professions Code section 5100(g).

8. From February 1, 1996 forward to the hearing date, respondent's license was either expired or inactive except for the single period of November 21, 2000 through January 31, 2002. Any practice of public accountancy by respondent during the following periods ("Unlicensed Periods") was improper: (1) February 1, 1996 to November 20, 2000 and (ii) February 1, 2002 forward.

9. Respondent did engage in the practice of public accountancy during the Unlicensed Periods, as follows:

a. In Calendar Year 2000 (prior to November 21, 2000 conversion of license to active status): Beginning in January of 2000, while his license was expired or inactive, respondent entered into engagement letters, performed audits of financial statements and issued formal auditor's reports for an unspecified number of not-for-profit group homes for the 1999 fiscal year (ended Dec. 31, 1999). Among the not-for-profit entities audited by respondent were The House of Biggs, Inc. and I.C. Change, Inc. Respondent issued his auditor's report for these two entities in April and May of 2000.

b. In Year 2002 (after license expiration on January 31, 2002): Respondent's license expired on January 31, 2002. On March 12, 2002, respondent received formal written notice that he was to immediately cease and desist from practicing public accountancy. Nonetheless respondent engaged in the practice of accountancy, after his license expired January 31, 2002, as well as after receipt of the March 12, 2002 notice, by performing the audit work and issuing the auditor's report for The House of Biggs dated June 30, 2002.

Respondent's Failure to Provide Requested  
Information and Documentation to Board

10. California Code of Regulations, Title 16, section 52 requires a licensee to respond to any inquiry by the Board, which includes making available all files, working

papers and other documents requested. The violation of this obligation subjects the violator to discipline under Business and Professions Code section 5100(g).

11. The California Department of Social Services, Financial Audits and Investigations Bureau ("FAIB") submitted its Licensee Referral to the Board on November 20, 2001. The Licensee Referral raised various questions concerning respondent's standard of work and his license status. As a result of this referral, the Enforcement Division of the Board began its own investigation of respondent.

12. During the Board's investigation, respondent repeatedly failed to respond to the Board's many requests for documentation including, but not limited to, the working papers supporting his financial audits and the referenced management letters. The requests to respondent began on December 5, 2001 and continued regularly thereafter. Respondent made repetitive promises to produce requested documents, but then either failed to produce or produced only partial documentation. Further, respondent lied to the Board as to the reasons he did not produce the required working papers. Respondent first testified that his fiscal year 2000 working papers had been in a luggage bag retained by airport security and could not be recovered. He subsequently changed his story by stating that all his working papers prepared for only fiscal year 2000 had been stolen from his car. He subsequently again changed his story by claiming that all his working papers had been stolen for both fiscal years 2000 and 2001, being the key years for which he was being investigated. Respondent's testimony was not credible. It is noted the key requested documents (working papers and management letters) were never produced to the investigator and were not produced at this hearing. In total, respondent failed to cooperate with the Board's investigation and actively sought to delay, confuse, obstruct and avoid the investigation and its possible consequences.

The House of Biggs Independent Auditor's Report  
By Respondent (1<sup>st</sup> Biggs Report)

13. On or about June 30, 2002, the Independent Auditor's Report and the Report on Compliance and On Internal Control Over Financial Reporting were issued under respondent's letterhead and signature (1<sup>st</sup> Biggs Report). Prior to June 30, 2002, respondent performed the underlying audit of the financial statement of this entity. At the time respondent performed these accountancy services, respondent's license had expired and he no longer possessed a valid license to practice public accountancy.

14. Respondent testified that he intended for a third-party licensee to print out the report and submit it under the third party's letterhead and signature; however, the third-party licensee misunderstood and simply signed respondent's name under respondent's letterhead. This testimony was not credible. Regardless, respondent admitted he is responsible for the underlying audit work and the issuance of this audit report.

15. As set forth in Findings 2, 7 and 9b, respondent's license had expired on January 31, 2002. Consequently, respondent's practice of public accountancy without a valid license violates Business and Professions Code sections 5050 and 5100(g) as well as California Code of Regulations, Title 16, section 80(b).

16. By issuing the June 30, 2002 Independent Auditor's Report and Internal Control Report, respondent intentionally represented to his client, the public and to the Department of Social Services that he then possessed a valid license and was properly acting as a certified public accountant. As respondent did not then possess a valid license, this misrepresentation constituted a violation of Business and Professions Code section 5100(c), for dishonesty in the practice of public accountancy.

The House of Biggs Independent Auditor's Report  
by William R. Gray (2<sup>nd</sup> Biggs Report)

17. Following submission of respondent's Independent Auditor's Report for The House of Biggs (dated June 30, 2002), respondent realized the report had been submitted while his license was expired and was the subject of the Board's investigation. Respondent then sought to have the same report re-issued and signed by a third-party certified public accountant. Respondent approached a professional friend, William R. Gray, a licensed certified public accountant and requested that he print the audit report on his letterhead and issue it under his signature. Mr. Gray did as requested, but did so only because of respondent's representation that the underlying audit had been properly performed and that respondent would deliver the underlying working papers to Mr. Gray for his subsequent review. Respondent never delivered the underlying working papers to Mr. Gray despite several subsequent requests.

18. These acts by respondent constitute a violation of Business and Professions Code section 5100(c) in that respondent engaged in dishonesty, fraud or gross negligence in the practice of public accountancy. Respondent was dishonest or fraudulent to his client, to Mr. Gray and especially to the Department of Social Services in that respondent caused Mr. Gray to issue an audit report without performing the underlying audit and/or reviewing the underlying work papers and Mr. Gray (and consequently the Department of Social Services) had no idea whether respondent's work conformed to the applicable professional standards.

Respondent's Failure to Comply With  
Professional Accounting and Auditing Standards

19. Business and Professions Code section 5062 requires that a licensee shall issue a report which conforms to professional standards upon completion of a compilation, review or audit of financial statements. California Code of Regulations, Title 16, section 58 provides that licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to, generally accepted accounting principles and generally accepted auditing

standards. California Code of Regulations, Title 16, section 5 requires a licensee to observe Board rules if the licensee engages in the types of activities performed by certified public accountants. The failure to comply with all applicable professional standards and rules subjects the licensee to discipline under Business and Professions Code section 5100(g).

20. For fiscal year 1999, the federal government began to require "audited" financial statements from not-for-profit providers receiving federal Foster Care Program funds under Title IV-E of the Social Security Act. The purpose of the audited financial statements was to ensure that the public funds were properly expended and were benefiting the intended beneficiaries, being at risk youths in six-bed group homes. All such audits were to be performed by certified public accountants and the audit work was required to conform to: (1) generally accepted accounting principles ("GAAP"), (ii) Generally Accepted Auditing Standards ("GAAS") issued by the American Institute of Certified Public Accountants, which are discussed in the Statements on Auditing Standards, and (iii) the Generally Accepted Government Auditing Standards ("GAGAS"), also known as the Yellow Book, issued by the General Accounting Office.

21. For fiscal years 1999 and 2000, respondent performed the required audits of financial statements, issued Independent Auditor's Reports, and issued Reports on Compliance and On Internal Control for approximately twenty-one not-for-profit group homes.

22. Respondent's public accountancy work for these non-for-profit homes failed to meet or comply with the applicable professional standards, as follows:

a. Section 4.34 of GAGAS requires that a record of the auditor's work should be retained in the form of working papers. The working papers should contain sufficient information to enable an experienced auditor having no previous connection with the audit to ascertain from then the evidence that supports the auditor's significant conclusions and judgments. Section 339A.08 of GAAS requires the auditor to adopt reasonable procedures for safe custody of his working papers and retain them for a sufficient period. As the working papers were never produced, it is not known if respondent actually utilized or prepared the required working papers. However, it is known that respondent failed to retain and produce any working papers for fiscal years 1999 and 2000 audit work and failed to use procedures for safe custody of his working papers. This is a significant failure in that respondent's accountancy work cannot be independently evaluated in the absence of his underlying working papers.

b. Section 5.26 of GAGAS requires that auditors should report deficiencies in internal control that they consider to be "reportable conditions." Section 5.27 of GAGAS requires that auditors should identify those reportable conditions that, individually or cumulative, arise to the level of "material weaknesses." In at least two of his Reports on Compliance and On Internal Control Over Financial Reporting, respondent did not include or identify the reportable conditions which rose to material weaknesses. Further, many of respondent's Reports on Compliance and Internal Control referenced

to-be-prepared management letters which would identify other matters involving internal control; however, respondent did not subsequently prepare these required management letters. The failure to prepare, issue and submit the management letters is a significant failing because internal control problems are not identified and cannot be rectified. Also, the absence of the management letters makes it very difficult to independently evaluate respondent's accountancy work.

c. Section 150.02 of GAAS, Standards of Reporting 4, requires that an audit report shall contain either an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. In all cases where an auditor's name is associated with financial statements, the report should contain a clear cut indication of the character of the auditor's work and the degree of responsibility the auditor is taking. In at least two instances (National Organization Against Gangs, Inc. and L & L Group Homes, Inc.) respondent's audit report contain conflicting and confusing language as to the character of licensee's work and failed to comply with the professional reporting standards.

#### Aggravation

23. Although there is no evidence that any of respondent's improper actions actually caused economic damage to his clients, to the Department of Social Services, or to the general public, aggravating circumstances do exist. The aggravating circumstances include respondent's efforts to delay, confuse, obstruct and avoid the Board's investigation. Aggravating circumstances also include respondent's submission of audit reports to the Department of Social Services without performing the underlying audit and/or reviewing the underlying working papers. These aggravating circumstances have been considered in determining the appropriate discipline to be imposed, namely, the determination that revocation is warranted. However, revocation of respondent's license is warranted on the basis of each separate violation in and of itself and without considering any aggregation of violations or any aggravating circumstances.

#### Mitigation

24. Respondent testified that his accountancy work did not meet the applicable professional standards at least in part because he suffers from rheumatoid arthritis and depression. However, these continuing physical and mental conditions only dramatize the concern raised about the quality of respondent's professional competence. These conditions do not justify any mitigation of discipline.

#### Imposition of Costs

25. Business and Professions Code section 5107 provides that the Board may request that the respondent be ordered to pay all reasonable costs of investigation and prosecution of the case, including but not limited to attorneys' fees. The costs incurred

at the hearing itself cannot be imposed or recovered. The Board requested that the proposed decision direct the licensee to pay all reasonable costs.

26. The Board has certified that \$27,170.94 in total costs, including attorneys' fees, were reasonably incurred. The total costs breakdown as follows: \$17,304.00 by the Attorney General's Office in prosecution of this matter and \$9,866.94 by the Board in the investigation of this matter. As found by the Administrative Law Judge, while the costs incurred are high, the sum is reasonable under the particular circumstances of this case. Most of these costs were incurred as the direct result of respondent's lack of cooperation, his on-going failure to produce the necessary documents, reports, working papers and management letters, and his general attempts to delay, confuse and obstruct the investigation.

27. Respondent testified that he was destitute and could not afford to pay any imposed costs. Respondent delivered two years of income tax returns (for tax years 2001 and 2002) to the court. The adjusted gross income for year 2001 was \$66,616 and \$68,989 for year 2002. These tax returns demonstrate that respondent has earned significant money in the past two years and is considerably above the poverty line. Further, his adjusted gross income actually increased in year 2002, a year when his license expired. Consequently, respondent has failed to demonstrate he cannot pay all or a portion of the costs or that payment of the costs would cause an unreasonable financial hardship which cannot be remedied through a payment plan.

#### LEGAL CONCLUSIONS

1. By reason of the matters set forth in the Findings 3 through 6, respondent knowingly made false or misleading statements in his application concerning his compliance with continuing education requirements. Consequently, cause for disciplinary action exists pursuant to Business and Professions Code section 498, California Code of Regulations, title 16, section 89(k) and Business and Professions Code section 5100.

2. By reason of the matters set forth in Findings 7 through 9, respondent engaged in the practice of public accountancy without a valid license. Consequently, cause for disciplinary action exists pursuant to California Code of Regulations, Title 16, section 80(b) and Business and Professions Code sections 5050 and 5100.

3. By reason of the matters set forth in Findings 10 through 12, respondent failed to respond to a Board inquiry and provide requested files, reports, working papers and management letters. Consequently, cause for disciplinary action exists pursuant to California Code of Regulations, Title 16, section 52 and Business and Professions Code section 5100.



4. By reason of the matters set forth in Findings 13 through 16, respondent misrepresented his license status to his client, the general public and the Department of Social Services. Consequently, cause for disciplinary action exists pursuant to Business and Professions Code section 5100(c) for dishonesty in the practice of public accountancy.

5. By reason of the matters set forth in Findings 17 through 18, respondent engaged in dishonesty, fraud or gross negligence in the practice of public accountancy. Consequently, cause for disciplinary action exists pursuant to Business and Professions Code section 5100(c).

6. By reason of the matters set forth in Findings 19 through 22, respondent has failed to comply with the applicable professional standards and rules required by a certified public accountant performing audits of financial statements for not-for-profit group homes. Consequently, cause for disciplinary action exists pursuant to Business and Professions Code section 5062, California Code of Regulations, Title 16, sections 5 and 58 and Business and Professions Code section 5100(g).

7. As determined by the Administrative Law Judge, by reason of the matters set forth in Findings 25 through 27, cause exists, pursuant to Business and Professions Code section 5107 to require respondent to pay the Board's costs of investigation and prosecution in the amount of \$27,170.94. As determined by the Administrative Law Judge, the \$27, 170.94 is a reasonable sum under the present circumstances. Respondent has failed to prove or establish that he is unable to pay these costs or that payment of the costs would cause an unreasonable financial hardship which cannot be remedied through a payment plan.

8. By reason of the matters set forth in Findings 3 through 27 and Conclusions 1 through 7, the public interest requires that appropriate discipline be imposed against this license. In view of the gravity of respondent's misconduct, revocation is the appropriate discipline to be imposed.

#### ORDER

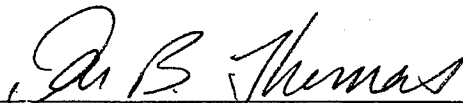
1. Certificate Number CPA 21583, issued to Robert R. Grayson, is hereby revoked.

2. Respondent shall reimburse the Board the costs of investigation and prosecution in the amount of \$27,170.94. Payment shall be made within 120 days of the effective date of this decision, unless other payment terms are agreed to by the Board.

3. Pursuant to the provisions of subdivision (a) of Business and Professions Code Section 5115, respondent shall not be permitted to petition the Board for reinstatement or reduction of penalty for a period of three years after the effective date of this decision.

This Decision shall become effective on March 29, 2004.

DATED: March 1, 2004

  
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IAN B. THOMAS, President  
California Board of Accountancy

BEFORE THE CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the matter of the Accusation  
against:

Robert R. Grayson  
1520 O'Farrell Street, No. 5  
San Francisco, CA 94115

Certificate No. 21583

Respondent

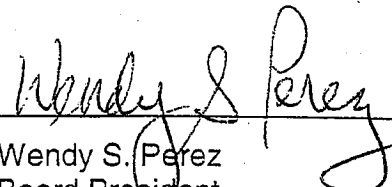
Case No.: AC-2003-13

OAH No. N2003010557

**ORDER OF NONADOPTION OF PROPOSED DECISION**

Pursuant to Section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above-entitled matter is not adopted. The California Board of Accountancy will decide the case upon record, including the transcript of the hearing held on April 16 – 17, 2003, and upon such written argument as the parties may wish to submit. The Board is particularly interested in written argument directed to the question whether the penalty should be increased. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

IT IS SO ORDERED this 6th day of August, 2003.

  
Wendy S. Perez  
Board President

BEFORE THE  
BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ROBERT R. GRAYSON  
1520 O'Farrell Street, #5  
San Francisco, CA 94115

No. AC-2003-13

OAH No. N 2003010557

Respondent.

**PROPOSED DECISION**

John K. Markley, Administrative Law Judge, Office of the Administrative Hearings, State of California, heard this matter on April 16, 2003, in Oakland, California.

Jeanne C. Werner, Deputy Attorney General, represented complainant, the Board of Accountancy.

Respondent, Robert R. Grayson, was present and represented himself.

Evidence was received, the matter was submitted and the record was held open to allow respondent to provide documentary evidence of financial hardship. Documentary evidence of financial hardship was received from respondent and admitted into evidence. The record was closed on April 25, 2003.

**FACTUAL FINDINGS**

1. Carol Sigmann made and filed this Accusation in her official capacity as Executive Officer of the California Board of Accountancy, Department of Consumer Affairs ("Board").
2. On June 20, 1975, the Board issued Certificate Number CPA 21583 ("License") to respondent. This License expired on February 1, 1996 and the expired status continued through March 1, 2000. This License was renewed to inactive status on March 2, 2000 and the inactive status continued through November 21, 2000. On November 21, 2000, this License was converted to active status which continued to January 31, 2002. On January 31, 2002, this license expired and was not renewed.

From February 1, 1996 forward, respondent's License was on active status only from November 21, 2000 through January 31, 2002. During all other periods, the License was either expired or inactive.

Renewing License to "Active" Status by  
Misrepresenting Continuing Education Compliance

3. Business and Professions Code section 498 provides that the Board may revoke, suspend or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit or knowing misrepresentation of material fact. California Code of Regulations, Title 16, section 94, provides that the failure to comply with continuing education requirements constitutes grounds for disciplinary action. California Code of Regulations, Title 16, section 89(k) provides that a licensee's willful making of any false or misleading statement, in writing, regarding continuing education shall constitute cause for disciplinary action under Business and Professions Code section 5100(b).

4. On November 21, 2000, respondent submitted the application entitled "License Status Conversion From Inactive To Active License Status" ("Application") to the Board, under penalty of perjury, seeking conversion of his "inactive" License to "active" status. In order to renew his License to active status, respondent was required to have completed 80 hours of required continuing education courses in the previous 24 months. Respondent's application represented that he had completed 92 hours of required continuing education.

5. The information contained in this Application was false, and known by respondent to be false, in that respondent had completed only 9 hours of the required continuing education; not the required 80 hours nor the claimed 92 hours. Of the 92 claimed hours, 8 hours were verified by Practical Training Institute and 1 hour was documented by Quality Assurance Service. As to all other claimed hours of education compliance, respondent was unable to document or verify these hours in any way and his explanations and excuses were not credible.

6. Herein, respondent improperly secured the renewal of his license to active status on November 21, 2000 by knowingly misrepresenting, through the use of false statements, his compliance with the continuing education requirements.

Engaging in Practice of Public Accountancy Without a Valid License

7. Business and Professions Code section 5050 provides that no person shall engage in the practice of public accountancy unless such person is the holder of a valid permit (license) issued by the Board. California Code of Regulations, Title 16, section 80(b) provides that the holder of an inactive license shall not engage in the practice of public accountancy. Respondent is prohibited from practicing public accountancy at any time his License had expired or was on inactive status. A violation of these codes and regulations

constitutes grounds for imposition of discipline pursuant to Business and Professions Code section 5100(g).

8. From February 1, 1996 forward to this hearing date, respondent's License was either expired or inactive except for the single period of November 21, 2000 through January 31, 2002. Any practice of public accountancy by respondent during the following periods ("Unlicensed Periods") was improper: (i) February 1, 1996 to November 20, 2000 and (ii) February 1, 2002 forward.

9. Respondent did engage in the practice of public accountancy during the Unlicensed Periods, as follows:

a. In Calendar Year 2000 (prior to November 21, 2000 conversion of License to active status): Beginning in January of 2000, while his License was expired or inactive, respondent entered into engagement letters, performed audits of financial statements and issued formal auditor's reports for an unspecified number of not-for-profit group homes for the 1999 fiscal year (ended Dec. 31, 1999). Among the not-for-profit entities audited by respondent were The House of Biggs, Inc. and I. C. Change, Inc. Respondent issued his auditor's report for these two entities in April and May of 2000.

b. In Year 2002 (after License expiration on January 31, 2002): Respondent's License expired on January 31, 2002. On March 12, 2002, respondent received formal written notice that he was to immediately cease and desist from practicing public accountancy. Nonetheless respondent engaged in the practice of accountancy, after his License expired January 31, 2002, as well as after receipt of the March 12, 2002 notice, by performing the audit work and issuing the auditor's report for The House of Biggs dated June 30, 2002.

Respondent's Failure to Provide Requested  
Information and Documentation to Board

10. California Code of Regulations, Title 16, section 52 requires a licensee to respond to any inquiry by the Board, which includes making available all files, working papers and other documents requested. The violation of this obligation subjects the violator to discipline under Business and Professions Code section 5100(g).

11. The California Department of Social Services, Financial Audits and Investigations Bureau ("FAIB"), submitted its Licensee Referral to the Board on November 20, 2001. The Licensee Referral raised various questions concerning respondent's standard of work and his license status. As a result of this referral, the Enforcement Division of the Board began its own investigation of respondent.

12. During the Board's investigation, respondent repeatedly failed to respond to the Board's many requests for documentation including, but not limited to, the working papers supporting his financial audits and the referenced management letters. The requests

to respondent began on December 5, 2001 and continued regularly thereafter. Respondent made repetitive promises to produce requested documents, but then either failed to produce or produced only partial documentation. Further, respondent lied to the Board as to the reasons he did not produce the required working papers. Respondent first testified that his fiscal year 2000 working papers had been in a luggage bag retained by airport security and could not be recovered. He subsequently changed his story by stating that all his working papers prepared for only fiscal year 2000 had been stolen from his car. He subsequently again changed his story by claiming that all his working papers had been stolen for both fiscal years 2000 and 2001, being the key years for which he was being investigated. Respondent's testimony was not credible. It is noted the key requested documents (working papers and management letters) were never produced to the investigator and were not produced at this hearing. In total, respondent failed to cooperate with the Board's investigation and actively sought to delay, confuse, obstruct and avoid the investigation and its possible consequences.

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15. As set forth in Findings 2, 7 and 9b, respondent's License had expired on January 31, 2002. Consequently, respondent's practice of public accountancy without a valid license violates Business and Professions Code sections 5050 and 5100(g) as well as California Code of Regulations, Title 16, section 80(b).

16. By issuing the June 30, 2002 Independent Auditor's Report and Internal Control report, respondent intentionally represented to his client, the public and to the Department of Social Services that he then possessed a valid License and was properly acting as a certified public accountant. As respondent did not then possess a valid License, this misrepresentation constituted a violation of Business and Professions Code section 5100(c), for dishonesty in the practice of public accountancy.

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20. For fiscal year 1999, the federal government began to require "audited" financial statements from not-for-profit providers receiving federal Foster Care Program funds under Title IV-E of the Social Security Act. The purpose of the audited financial statements was to ensure that the public funds were properly expended and were benefiting the intended beneficiaries, being at risk youths in six-bed group homes. All such audits were to be performed by certified public accountants and the audit work was required to conform to: (i) generally accepted accounting principles ("GAAP"), (ii) Generally Accepted Auditing Standards ("GAAS") issued by the American Institute of Certified Public Accounts, which



are discussed in the Statements On Auditing Standards, and (iii) the Generally Accepted Government Auditing Standards ("GAGAS"), also known as the Yellow Book, issued by the General Accounting Office.

21. For fiscal years 1999 and 2000, respondent performed the required audits of financial statements, issued Independent Auditor's Reports, and issued Reports On Compliance And On Internal Control for approximately twenty-one not-for-profit group homes.

22. Respondent's public accountancy work for these not-for-profit homes failed to meet or comply with the applicable professional standards, as follows:

(a) Section 4.34 of GAGAS requires that a record of the auditor's work should be retained in the form of working papers. The working papers should contain sufficient information to enable an experienced auditor having no previous connection with the audit to ascertain from them the evidence that supports the auditors' significant conclusions and judgments. Section 339A.08 of GAAS requires the auditor to adopt reasonable procedures for safe custody of his working papers and retain them for a sufficient period. As the working papers were never produced, it is not known if respondent actually utilized or prepared the required working papers. However, it is known that respondent failed to retain and produce any working papers for fiscal years 1999 and 2000 audit work and failed to use procedures for safe custody of his working papers. This is a significant failure in that respondent's accountancy work can not be independently evaluated in the absence of his underlying working papers.

(b) Section 5.26 of GAGAS requires that auditors should report deficiencies in internal control that they consider to be "reportable conditions". Section 5.27 of GAGAS requires that auditors should identify those reportable conditions that, individually or cumulative, arise to the level of "material weaknesses". In at least two of his Reports On Compliance And On Internal Control Over Financial Reporting, respondent did not include or identify the reportable conditions which rose to material weaknesses. Further, many of respondent's Reports On Compliance and Internal Control referenced to-be-prepared management letters which would identify other matters involving internal control; however respondent did not subsequently prepare these required management letters. The failure to prepare, issue and submit the management letters is a significant failing because internal control problems are not identified and can not be rectified. Also, the absence of the management letters makes it very difficult to independently evaluate respondent's accountancy work.

(c) Section 150.02 of GAAS, Standards of Reporting 4, requires that an audit report shall contain either an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. In all cases where an auditor's name is associated with financial statements, the report should contain a clear cut indication of the character of the auditor's work and the degree of responsibility the auditor is taking. In at least two instances (National Organization Against Gangs, Inc. and L

& L Group Homes, Inc.) respondent's audit report contain conflicting and confusing language as to the character of licensee's work and failed to comply with the professional reporting standards.

#### Aggravation

23. The Board, in its accusation, has asserted that aggravating circumstances exist which would effect the discipline to be imposed. However, there is no evidence that any of respondent's improper actions actually caused economic damage to his clients, to the Department of Social Services or to the general public. Consequently, the alleged aggravating circumstances do not justify a greater discipline than would otherwise be imposed.

#### Mitigation

24. Respondent testified that his accountancy work did not meet the applicable professional standards at least in part because he suffers from rheumatoid arthritis and depression. However, these continuing physical and mental conditions only dramatize the concern raised about the quality of respondent's professional competence. These conditions do not justify any mitigation of discipline, but may be considered in determining the type of discipline to be imposed.

#### Imposition of Costs

25. Business and Professions Code section 5107 provides that the Board may request that the respondent be ordered to pay all reasonable costs of investigation and prosecution of the case, including but not limited to attorneys' fees. The costs incurred at the hearing itself can not be imposed or recovered. The Board requested that the proposed decision direct the Licensee to pay all reasonable costs.

26. The Board has certified that \$27,170.94 in total costs, including attorneys' fees, were reasonably incurred. The total costs breakdown as follows: \$17,304.00 by the Attorney General's Office in prosecution of this matter and \$9,866.94 by the Board in the investigation of this matter. While the costs incurred are high, the sum is reasonable under the particular circumstances of this case. Most of these costs were incurred as the direct result of respondent's lack of cooperation, his on-going failure to produce the necessary documents, reports, working papers and management letters, and his general attempts to delay, confuse and obstruct the investigation.

27. Respondent testified that he was destitute and could not afford to pay any imposed costs. Respondent delivered two years of income tax returns (for tax years 2001 and 2002) to the court. The adjusted gross income for year 2001 was \$66,616 and \$68,989 for year 2002. These tax returns demonstrate that respondent has earned significant money in the past two years and is considerably above the poverty line. Further, his adjusted gross income actually increased in year 2002, a year when his License had expired. Consequently,

respondent has failed to demonstrate he cannot pay all or a portion of the costs or that payment of the costs would cause an unreasonable financial hardship which cannot be remedied through a payment plan.

### LEGAL CONCLUSIONS

1. By reason of the matters set forth in the Findings 3 through 6, respondent knowingly made false or misleading statements in his Application concerning his compliance with continuing education requirements. Consequently, cause for disciplinary action exists pursuant to Business and Professions Code section 498, California Code of Regulations, Title 16, section 89(k) and Business and Professions Code section 5100.

2. By reason of the matters set forth in Findings 7 through 9, respondent engaged in the practice of public accountancy without a valid license. Consequently, cause for disciplinary action exists pursuant to California Code of Regulations, Title 16, section 80(b) and Business and Professions Code sections 5050 and 5100.

3. By reason of the matters set forth in Findings 10 through 12, respondent failed to respond to a Board inquiry and provide requested files, reports, working papers and management letters. Consequently, cause for disciplinary action exists pursuant to California Code of Regulations, Title 16, section 52 and Business and Professions Code section 5100.

4. By reason of the matters set forth in Findings 13 through 16, respondent misrepresented his License status to his client, the general public and the Department of Social Services. Consequently, cause for disciplinary action exists pursuant to Business and Professions Code section 5100 (c) for dishonesty in the practice of public accountancy.

5. By reason of the matters set forth in Findings 17 through 18, respondent engaged in dishonesty, fraud or gross negligence in the practice of public accountancy. Consequently, cause for disciplinary action exists pursuant to Business and Professions Code section 5100(c).

6. By reason of the matters set forth in Findings 19 through 22, respondent has failed to comply with the applicable professional standards and rules required by a certified public accountant performing audits of financial statements for not-for-profit group homes. Consequently, cause for disciplinary action exists pursuant to Business and Professions Code sections 5062, California Code of Regulations, Title 16, sections 5 and 58 and Business and Professions Code section 5100(g).

7. By reason of the matters set forth in Findings 25 through 27, cause exists, pursuant to Business and Professions Code section 5107 to require respondent to pay the Board's costs of investigation and prosecution in the amount of \$27,170.94. The \$27,170.94 is a reasonable sum under the present circumstances. Respondent has failed to prove or establish that he is unable to pay these costs or that payment of the costs would cause an unreasonable financial hardship which cannot be remedied through a payment plan.

8. By reason of the matters set forth in Findings 3 through 27 and Conclusions 1 through 7, the public interest requires that appropriate discipline be imposed against this License.

### ORDER

1. Revocation/Stay: Certificate Number CPA 21583 ("License"), issued to Robert R. Grayson, is revoked pursuant to Conclusions 1 through 8, separately and for each of them. However, the revocation is stayed for a period of four (4) years on the following terms and conditions:

- a. One Year Suspension: The License shall be suspended for a period of one (1) year. During the suspension period the respondent shall engage in no activities for which certification as a Certified Public Account or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.
- b. Three Year Probation: At the end of the one year suspension, any license held by respondent shall be placed on probation for a three (3) year period.
- c. Conditions of Probations: During the probationary period, the following conditions of probation shall apply:
  - (i) Obey All Laws: Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.
  - (ii) Submit Quarterly Written Reports: Respondent shall submit, within 10 days of completion of the quarter, written reports to the Board on a form obtained from the Board. The respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.
  - (iii) Personal Appearances: Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the board or its designated representatives, provided such notification is accomplished in a timely manner.
  - (iv) Comply With Probation: Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the California Board of

Accountancy in its monitoring and investigation of the respondent's compliance with probation terms and conditions.

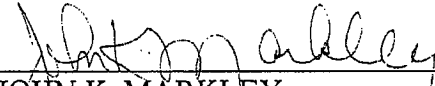
- (v) Practice Investigation: Respondent shall be subject to, and shall permit, a practice investigation of the respondent's professional practice. Such a practice investigation shall be conducted by representatives of the Board, provided notification of such review is accomplished in a timely manner.
- (vi) Comply With Citations: Respondent shall comply with all final orders resulting from citations issued by the California Board of Accountancy.
- (vii) Tolling of Probation For Out-Of-State Residence/Practice: In the event respondent should leave California to reside or practice outside this state, respondent must notify the board in writing of the date of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period or of any suspension period. No obligation imposed herein, including requirements to file written reports, reimburse the Board costs, and make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the Board.
- (viii) Violation of Probation: If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke the probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
- (ix) Completion of Probation: Upon successful completion of probation, respondent's License will be fully restored.
- (x) Engagement Letters: Respondent shall use engagement letters with each engagement accepted during probation and shall provide copies of same to the Board or its designee upon request.
- (xi) Samples of Audit, Review or Compilation: During the period of probation, if the respondent undertakes an audit, review or compilation engagement, the respondent shall submit to the Board as an attachment to the required quarterly report a listing of the same. The Board or its designee may select one or more from each category and the resulting report and financial statement and all related working papers must be submitted to the Board or its designee upon request.

2. Continuing Education: Respondent shall complete and provide proper documentation of all applicable professional education courses which are required to be completed in order to renew or activate his License.

3. Required Examinations: Respondent shall take and pass such professional examinations, if any, as may be required by the Board prior to the resumption of his practice.

4. Respondent shall pay to the Board the costs of investigation and prosecution in the amount of \$27,170.94. Payment shall be completed prior to commencement of the probationary period unless other payment terms are agreed to by the Board.

Dated: May 8, 2003

  
\_\_\_\_\_  
JOHN K. MARKLEY  
Administrative Law Judge  
Office of Administrative Hearings

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7  
8

9  
10 **BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

11  
12 In the Matter of the Accusation Against:

Case No. AC-2003-13

13 ROBERT R. GRAYSON  
14 1520 O'Farrell Street, #5  
San Francisco, CA 94115

**FIRST AMENDED ACCUSATION**

15 Certificate No. CPA 21583,

16 Respondent.  
17

18  
19 Complainant alleges:

20 **PARTIES AND JURISDICTION**

21 1. Complainant Carol Sigmann brings this Accusation solely in her official  
22 capacity as the Executive Officer of the California Board of Accountancy, Department of  
23 Consumer Affairs. This First Amended Accusation, hereinafter "Accusation," replaces the  
24 Accusation on file herein *nunc pro tunc*.<sup>1</sup>

25 2. On or about June 20, 1975, the California Board of Accountancy issued  
26 Certificate Number CPA 21583 to Robert R. Grayson, Respondent herein. The Certificate, now  
27

28 1. The amendments included herein are found in paragraphs 1, 3, 4, 12, 13, 22, 25, 29, and  
32.

1 subject to renewal every two years (on February 1) pursuant to Code Section 5070.5, had been  
2 renewed, at some time on or before March 1989, in an "inactive"<sup>2</sup> status.<sup>3</sup> The certificate was  
3 inactive from in or before March 1989 until its expiration on January 31, 1992. Since that date,  
4 the Board records have reflected the status of the certificate as follows:

5 A. Expired (in an inactive status) from February 1, 1992 through June  
6 14, 1992.

7 B. Renewed in an "active" status from June 15, 1992 through January  
8 31, 1996.

9 C. Expired from February 1, 1996 through March 1, 2000.

10 D. Renewed effective March 2, 2000, in an "inactive" status, in which  
11 status it remained until its status was converted to "active", effective November 21, 2000, upon  
12 renewal pursuant to the "reentry" provisions of Board Rule 87.1, through January 31, 2002.

13 E. Expired on January 31, 2002, and has not been renewed.

14 3. This Accusation is brought before the California Board of Accountancy  
15 (hereinafter Board), Department of Consumer Affairs, under the authority of Section 5100 of the  
16 Business and Professions Code,<sup>4</sup> which provides, in relevant part, that, after notice and hearing  
17 the board may revoke, suspend or refuse to renew any permit or certificate granted, or may  
18 censure the holder of that permit or certificate, for unprofessional conduct which includes, but is  
19 not limited to, one or any combination of the causes specified therein, including:

20 (b) A violation of Section 498 dealing with false statements or  
21 omissions in obtaining a permit to practice.

22  
23 2. The "inactive" status denotes renewal without required continuing education. The  
24 inactive license does not authorize the practice of public accountancy (Board Rule 80).

25 3. The Board's records were transferred to the DCA's centralized computer system in  
26 March 1989 and, as a result, the underlying documentation related to the license history is  
unavailable prior to that date.

27 4. All statutory references are to the Business and Professions Code unless otherwise  
28 indicated. Certain subparagraphs of Section 5100 were re-lettered, effective January 2003, and  
have been re-lettered in this amended pleading.



1 (c) Dishonesty...(or) gross negligence in the practice of public  
2 accountancy.

3 (g) Willful violation of the Accountancy Act or any rule or regulation  
4 promulgated by the board under the authority granted under this  
5 chapter.<sup>5</sup>

6 (j) Knowing preparation, publication or dissemination of false,  
7 fraudulent, or materially misleading financial statements, reports,  
8 or information.

9 4. Requirement for Licensure. Code Section 5050 provides that no person  
10 shall engage in the practice of public accountancy in this State unless such person is the holder of  
11 a valid permit to practice public accountancy issued by the board. Code Section 5051 defines the  
12 practice of public accountancy within the meaning and intent of the Accountancy Act.<sup>6</sup>

13 5. Obtaining License by Fraud, Deceit, Misrepresentation. Code Section  
14 498 states that a board may revoke, suspend, or otherwise restrict a license on the ground that the  
15 licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or  
16 by knowingly omitting to state a material fact.

17 6. Misuse of License. Code Section 125 provides in pertinent part that a  
18 Board licensee is guilty of a misdemeanor and subject to the disciplinary provisions of this code  
19 applicable to him when he conspires with a person not so licensed to violate any provision of this  
20 code, or when, with intent to aid or assist that person in violating those provisions does either of  
21 the following:

22 (a) Allows his or her license to be used by that person.  
23

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24 5. Board rules or regulations cited herein are codified in the California Code of  
25 Regulations and will be referenced simply as a Board Rule, e.g., Cal. Code Regs., tit.16, § 5  
26 will be referenced herein as Board Rule 5.

27 6. The definition of the practice of public accountancy includes (but is not limited to)  
28 "holding out" (Section 5051(a)); offering to prospective clients to perform services (Section  
5051(c)); and preparing and certifying reports on audits that are used for filing with any  
governmental agency or for any other purpose (Section 5051(d)).

1 (b) Acts as his or her agent or partner.

2 7. Required Observance of Rules. Board Rule 5 requires a licensee to  
3 observe Board rules if the licensee is engaged in the types of activities performed by certified  
4 public accountants or who renders other professional services which include, but are not limited  
5 to, bookkeeping, financial planning, investment planning, tax services and management services.

6 8. Professional Standards - (Audit) Reports. Section 5062 of the Code  
7 provides that a licensee shall issue a report which conforms to professional standards upon  
8 completion of a compilation, review or audit of financial statements.

9 9. Professional Standards (Audits of Financial Statements and Auditor's  
10 Reports). Board Rule 58 provides that licensees engaged in the practice of public accountancy  
11 must comply with all applicable professional standards, including but not limited to generally  
12 accepted accounting principles and generally accepted auditing standards. Standards of practice  
13 pertinent to this accusation and the engagements in issue include, without limitation:

14 A. Generally Accepted Auditing Standards ("GAAS") issued by the  
15 American Institute of Certified Public Accountants (AICPA). The ten GAAS (AU §150), which  
16 are interrelated, are attached as Appendix A and are discussed in the Statements on Auditing  
17 Standards ("SAS"). The SAS are codified, by "AU" number, in the AICPA's *Codification of*  
18 *Statements on Auditing Standards*. Among the SAS relevant herein are:

19 AU §150 (Ten Standards; Audit Risk; Materiality);

20 AU §210 (Training and Proficiency of the Independent Auditor);

21 AU §230 (Due Care);

22 AU §311 (Planning and Supervision);

23 AU §316.37 (Documentation of the Auditor's Risk Assessment);

24 AU §319 (Internal Control) and Appendix A (Control Environment Factors);

25 AU §326 (Evidential Matter);

26 AU §339 (Working Papers); and

27 AU §508 (Auditor's Report).

28 B. Generally Accepted Government Auditing Standards ("GAS" or

1 "GAGAS"), 1994 revision (the "Yellow Book"), issued by the GAO. In addition to requiring  
2 observance of GAAS (above) for a "Yellow Book" audit, GAGAS provides supplemental  
3 working paper documentation requirements, and requires additional reports, on internal control  
4 and on compliance with laws and regulations. Also relevant herein are laws and regulations  
5 which govern the administration, including the funding, and auditing, of the group homes which  
6 are the subject of the audits performed by Respondent.

7 10. Continuing Education Requirements for Licensure and Active Practice.

8 A. Board Rule 80 provides that the holder of an inactive license shall  
9 not engage in the practice of public accountancy as defined by Code Section 5051, and further  
10 that an inactive license may be converted to active status by meeting the continuing education  
11 requirements in Rule 87.1.

12 B. Board Rule 87.1 details requirements for conversion to active  
13 status prior to the (next scheduled) renewal period. (A copy of Board Rule 87.1 is attached hereto  
14 as Appendix B.) Included among the requirements of Rule 87.1 are specific continuing  
15 education requirements for a licensee who engages in financial or compliance auditing of a  
16 governmental agency, and requirements for a licensee who engages in audit, review, compilation,  
17 or attestation services.

18 C. Board Rule 89 provides documentation and reporting requirements  
19 for a licensee who is required to obtain continuing education as a prerequisite to license renewal  
20 or conversion to "active" status. Board Rule 89(k) provides that the willful making of any false  
21 or misleading statement, in writing, regarding continuing education constitutes cause for  
22 discipline under Code Section 5100(g).

23 D. Board Rule 94 provides that the failure, by a licensee engaged in  
24 active practice, to comply with the Board's continuing education rules constitutes cause for  
25 discipline under Code Section 5100.

26 11. Required Response to Board Inquiry. Board Rule 52 requires a licensee to  
27 respond to an inquiry by the board, including making available all files, working papers and other  
28 documents requested. Failure to respond to a written inquiry within thirty days constitutes a

cause for discipline under Code Section 5100(g).

12. Pursuant to Code section 118(b), the suspension, expiration, or forfeiture by operation of law of a license issued by the Board shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the Board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground. Further, Code section 5109 provides, *inter alia*, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with any investigation or action or disciplinary proceeding against the licensee. Code section 5070.6 provides that an expired permit may be renewed at any time within five years after its expiration upon compliance with certain requirements.

13. Code Section 5107 authorizes the Board's recovery of certain costs which result from the investigation and prosecution of specified violations of the Accountancy Act.

Section 5107 has not yet been corrected to reflect the re-lettering of Section 5100. The alleged violations which authorize the reimbursement of costs herein are former 5100(c), re-lettered (d); and former 5100(i), re-lettered (j). A copy of Code Section 5107 is attached hereto as Appendix C.

### FOR CAUSES FOR DISCIPLINE

### Overview of Relevant Circumstances

14. Respondent's certificate is subject to discipline under Section 5100 on several bases, among them the status of his license; his departures from professional standards in the performance of his audit engagements; and his misrepresentations, coupled with his repeated lack of response, to the Board during its investigation, as set forth in detail below.

15. Relevant events regarding Respondent's license status are that Respondent, following a four-year period during which his license was expired (from February 1996 to March 1, 2000), renewed his license in an inactive status. Respondent then "converted" the license to an active status on November 21, 2000, based upon his attestation to his

1 completion of required continuing education.<sup>7</sup> The license expired on January 31, 2002, and  
2 has not been renewed.

3           16.     Relevant circumstances regarding Respondent's practice during the time  
4 period relevant herein is that his (part-time) practice consisted almost entirely of auditing the  
5 financial statements (and issuing associated required reports) of certain not-for-profit entities,  
6 audits to be conducted in accordance with auditing standards applicable to governmental entities.  
7 The entities for which Respondent audited the financial statements were six-bed group homes  
8 (for youths): the operators receive public funds, the entities must comply with applicable laws  
9 and regulations, and the audits must be conducted according to government auditing standards.

10                 Prior to calendar year 2000, requirements for audited financial statements of not-  
11 for-profit providers receiving federal Foster Care program (Title IV-E of the Social Security Act)  
12 funds had been implemented in California through the Department of Social Services (DSS).  
13 As set forth in greater detail hereinafter, Respondent performed audits of the financial statements  
14 of, and issued auditor's reports for, a number of group homes during time periods when his  
15 license was expired, inactive, or converted to "active" by his unsupported representation that he  
16 had complied with the applicable continuing education requirements. Respondent's performance  
17 of these audits is grossly negligent in each case in that his work contains extreme departures from  
18 applicable professional standards, including the total absence of working papers or audit  
19 documentation to support any of his audit work or his audit opinion.

20                         **Respondent's Group Home Audit Engagements**

21           17.     **Fiscal Year 1999.**     Respondent performed audits of the financial  
22 statements of, and issued auditor's reports for, a number of group homes for the fiscal year ended  
23 December 31, 1999. The number of entities is known to Respondent but not to Complainant.  
24 Among the entities audited were The House of Biggs, Inc. and I.C. Change, Inc. Respondent  
25 issued reports related to these engagements in or about April and May of 2000. Respondent  
26 performed these engagements during a period when his license was expired or inactive.

27  
28                         

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7. See Board Rules 80, 87.1 and 89.

1 Respondent also entered agreements with other clients to perform audit work during the period  
2 when his license was either expired or inactive. Respondent has no working papers for any of  
3 these audit engagements he performed.

4 18. **Fiscal Year 2000.** Respondent performed audits of the financial  
5 statements of at least twenty-one (21) not-for-profit entities (group homes) for the fiscal year  
6 ended December 31, 2000. The subject entities are:

7 Aim to Please; Allum's House, Inc.; Allum's Science Options, Inc.; Another Concept,  
8 Inc.; Another Option, Inc.; Eagle Eye Children's Home, Inc.; IC Change, Inc.; JR's North  
9 Star, Inc.; L&L Group Homes Inc.; Le Care Children's Home, Inc.; Lettia Center for  
10 Hope, Inc.; Moore's Metamorphosis, Inc.; National Organization Against Gangs, Inc.;  
11 Nettle's, Inc.; North Oakland Boys Development Center; Oakland Youth Services, Inc.;  
12 Steele's Reeducation Center, Inc.; Tender Loving Care Providers, Inc.; The House of  
13 Biggs, Inc.; We Care Connection Center, Inc.; and With Loving Care, Inc.

14 A. Twenty-one (21) Independent Auditor's Reports, and twenty-one  
15 (21) *Reports on Compliance and Reports on Internal Control*, all performed by Respondent,  
16 were submitted, as part of the Foster Care rate application process, to DSS in connection with FY  
17 2001/2002 applications. All of these reports were signed by Respondent and were dated between  
18 April and September, 2001. These Reports referenced, in each instance, a financial statement  
19 audit performed for the subject non-profit for the fiscal year ending December 31, 2000.

20 B. Respondent has no working papers for any of these twenty-one  
21 audit engagements he performed.

22 C. The Financial Audits & Investigations Bureau (FAIB) of the DSS  
23 submitted a complaint to the Board regarding certain features of the subject reports, as well as the  
24 fact that Respondent was either untimely in his response to their requests for additional  
25 information or documentation, or that, in most cases, he failed to respond at all. In addition,  
26 FAIB forwarded copies of three Independent Auditor's Reports (related to three of the twenty-  
27 one non-profits referenced above). Respondent's reports expressed his auditor's opinion on the  
28 financial statements using confusing and conflicting language regarding disclaimers of opinion or

1 qualified opinions.

2 D. Respondent performed certain of these engagements after his  
3 license was placed in an active status pursuant to his false certification that he had complied with  
4 continuing education requirements.

5 19. **Fiscal Year 2001 - THE HOUSE OF BIGGS, INC.**

6 A. An auditor's report and a compliance and internal control report, both issued  
7 for The House of Biggs, Inc. for the year ended December 31, 2001, were prepared, in 2002, on  
8 Respondent's letterhead, dated, and signed with his name. The reports, hereinafter referred to as  
9 the "first Biggs reports," were stamped "filed" at the Department of Social Services on July 9,  
10 2002. Although both "first Biggs reports" were dated June 2001, the date should have been June,  
11 2002. (Also, the report dates apparently correctly referenced within the body of the respective  
12 reports are June 2002, not June 2001.<sup>8</sup>)

13 B. With reference to the "first Biggs reports," signed and filed during a period  
14 when Respondent's license was expired (Respondent's license expired February 1, 2002),  
15 Respondent has represented that, while he performed all of the work for the audit engagement,  
16 including preparing the audit documentation, another unidentified person, whom he identified as  
17 a CPA, actually signed Respondent's name to the reports.

18 C. On or about December 6, 2002, the "second Biggs reports" were filed at the  
19 Department of Social Services. These "second Biggs reports," which are identical in most  
20 respects to the "first Biggs reports", are prepared on the letterhead, and bear the signature, of  
21 William R. Gray, a licensed CPA.

22 D. Respondent filed/caused to be filed both the first and the second Biggs  
23 reports with the Department of Social Services, as required by law. Respondent claims to have  
24 performed all of the audit work, including field work, underlying both sets of reports and to have  
25 prepared audit working papers, but has produced no working papers for the engagement.

26  
27  
28 8. The financial statements which accompanied the reports referenced fiscal year 2000 on  
one page and 2001 on others.

1 Violations

2 20. Incorporating by reference the matters asserted in paragraphs 17 through 19,  
3 Respondent's license is subject to discipline for his performance of each of these engagements, in  
4 that his conduct evidences, in each instance, extreme departures from professional standards, as  
5 follows:

6 A. The auditor's reports he prepared state that the audit of the  
7 respective financial statements was conducted in accordance with GAAS and GAS when, in truth  
8 and in fact, his performance of the subject engagements, including the reports he issued,  
9 demonstrated extreme departures from professional standards.

10 B. He failed to document his work in accordance with professional  
11 standards;

12 C. He failed to document his assessment of internal controls;

13 D. He failed to test for compliance with laws and regulations  
14 applicable to group homes, and to document same;

15 E. He failed to assess the audit risk, failed to establish a materiality  
16 level for his audits, and failed to document same;

17 F. He failed to issue required reports which comply with professional  
18 standards (not applicable to 2001 Biggs engagement).

19 G. Respondent's reports referenced management letters he prepared  
20 for all twenty-one entities describing reportable conditions, of which two rose to the level of  
21 reporting material weaknesses.<sup>9</sup> However, the reportable conditions/material weaknesses were  
22 not described in the reports; the management letters were not timely, if ever, prepared, and the  
23 management letters were not provided to the DSS as requested (not applicable to 2001 Biggs  
24 engagement).

25 H. Respondent failed to retain a record of his audit work in the form  
26 of working papers.

27 \_\_\_\_\_  
28 9. Respondent referenced material weaknesses for two of the organizations: L&L Group  
Homes, Inc., and National Organization Against Gangs.



1                   21.     Incorporating by reference the matters alleged in paragraphs 15 through  
2 20, Respondent's license is subject to disciplinary action for multiple violations of Code section  
3 5100(c) for gross negligence in the practice of public accountancy.

4                   22.     Incorporating by reference the matters alleged in paragraphs 15 through  
5 20, Respondent's license is subject to disciplinary action under Code section 5100(j) in that he  
6 knowingly prepared and filed false or materially misleading financial reports or information as a  
7 result of his audit work. These reports, issued pursuant to "Yellow Book" requirements, are  
8 relied upon by government agencies in the administration of public programs which serve a  
9 vulnerable population and which are funded by public monies.

10                  23.     Incorporating by reference the matters alleged in paragraphs 15 through  
11 20, Respondent's license is subject to disciplinary action under Code section 5062 in  
12 conjunction with Code section 5100 in that the reports he issued fail to comply with professional  
13 standards.

14                  24.     Incorporating by reference the matters alleged in paragraphs 15 through  
15 20, Respondent's license is subject to disciplinary action under Board rule 58 in conjunction  
16 with Code section 5100(g) in that he failed to observe applicable professional standards in his  
17 performance of the subject engagements.

18                   **Respondent's Fraudulent License Renewal/Unlicensed Practice/Related Violations**

19                  25.     Incorporating by reference the matters set forth in paragraphs 2 and 15,  
20 Respondent's license is subject to discipline in that he, in or about November 2000, submitted an  
21 application to the Board under penalty of perjury for conversion of his "inactive" status license to  
22 "active" status pursuant to the provisions of Board Rule 87.1. In order to renew his license in an  
23 active status, Respondent was required to have completed, in the 24-month period prior to  
24 converting to active status, 80 hours of required continuing education credit.<sup>10</sup> Respondent's  
25 application listed courses claiming credit for a total of 92 hours to meet these requirements.  
26 However, documentation for the 92 hours of course work, required to be obtained and retained

27 \_\_\_\_\_  
28                  10. Respondent was also required to take certain accounting and auditing courses as  
provided by Board Rule 87.1.

1 by Respondent pursuant to Board Rule 89, was not produced. The Board received verification  
2 of only 9 hours of qualifying continuing education.

3 26. Incorporating by reference the matters set forth in paragraphs 2, 15  
4 through 19, and 25, Respondent's license is subject to discipline in that he secured his "active"  
5 license, without which he was not permitted to practice, by fraud and/or by deceit and/or through  
6 the knowing misrepresentation of a material fact, under Code Section 5100(b) in conjunction  
7 with Code Section 498.

8 27. Incorporating by reference the matters alleged in paragraphs 2, 15 through  
9 19, and 25, cause for discipline exists under Board Rule 94 in conjunction with Code Section  
10 5100(g) in that the Respondent was engaged in the practice of public accountancy without a valid  
11 license as provided in the requirements found in Board Rules 87.1 and 89.

12 28. Incorporating by reference the matters alleged in paragraph 2, 15 through  
13 19, and 25, cause for discipline exists under Code Sections 5050 and 5051 in conjunction with  
14 Code Section 5100(g) in that the Respondent was engaged in the practice of public accountancy  
15 without a valid license. During the respective time periods, his license was either inactive,  
16 "renewed" by fraud, or expired.

17 29. The audit reports (auditor's reports and internal control reports) which are  
18 the subject of this accusation were required by law to be filed with the California Department of  
19 Social Services. Incorporating by reference the matters alleged in paragraphs 2 and 19, cause for  
20 discipline exists as follows:

21 a. Respondent issued, and/or filed with the Department of Social Services, the  
22 first Biggs reports, signed in his name and by his authority, without being duly licensed as a  
23 CPA. This conduct constitutes one of more of the following violations of the Accountancy Act:

- 24 (1) Respondent allowed his (invalid) license to be used by another [violations of  
25 Code Section 5100 and/or Code Section] 125 in conjunction with 5100(g)];  
26 (2) Dishonesty in the practice of public accountancy [Code Section 5100 (c)];  
27 (3) Gross negligence in the practice of public accountancy [Code Section  
28 5100(c)];

1 (4) Acting as the agent or partner of an unlicensed person [Code Section 125 in  
2 conjunction with Code Section 5100(g)];

3 (5) Unprofessional conduct [Code Section 5100].

4 b. Respondent filed, with the Department of Social Services, the second Biggs  
5 reports, having procured the cooperation of another licensed CPA, and the signature of said CPA  
6 on the reports, by fraud and deceit. This conduct constitutes one of more of the following  
7 violations of the Accountancy Act:

8 (1) Dishonesty in the practice of public accountancy [Code Section 5100 (c)];

9 (2) Gross negligence in the practice of public accountancy [Code Section 5100(c);

10 (3) Unprofessional conduct (unethical behavior) [Code Section 5100].

11  
12 **Respondent's Dishonesty In Response To Board Inquiry and**  
13 **Respondent's Failure to Respond**

14 30. Respondent is subject to disciplinary action under section 5100(g) in  
15 conjunction with Rule 52, and as a matter of general unprofessional conduct under Section 5100,  
16 in that he has been dishonest in his responses to Board inquiries and that he has failed to respond,  
17 including failing to produce working papers and other requested documentation to both the DSS  
18 and the Board, after repeatedly promising to do so. Among instances of unprofessional conduct  
19 warranting the imposition of discipline are the following:

20 Respondent has repeatedly lied to Board representatives during this investigation  
21 and has failed to produce requested records on numerous occasions, including before, during, and  
22 after an investigative hearing. Respondent has, for example, claimed that working papers for two  
23 audit engagements were confiscated at the airport and that they were subsequently recovered;  
24 then recanted, saying they had never been at the airport but had previously been stolen from his  
25 car; then changed the audit year for which the stolen working papers were prepared; then claimed  
26 that the working papers for all of his engagements, not just two, and not just for one year, had  
27 been stolen. He testified that he had lied in order to give himself time to prepare and produce  
28 "new" working papers for the engagements under investigation. He failed to produce any

1 working papers whatsoever in support of his audit opinions. He failed to produce underlying  
2 documentation that he had obtained the requisite continuing education for conversion of his  
3 license to active status. He also lied about the time periods during which he had practiced  
4 without a valid license, or practiced under the license obtained by fraud and deceit.

5  
6 **OTHER MATTERS**

7 31. Pursuant to Code section 5107, it is requested that the administrative law  
8 judge, as part of the proposed decision in this proceeding, direct respondent to pay to the Board  
9 all reasonable costs of investigation and prosecution in this case, including, but not limited to,  
10 attorneys' fees.

11 32. It is charged, in aggravation of penalty, that respondent has personally  
12 benefitted from his audit engagements while completely failing in his duty to produce competent  
13 audit reports, supported by adequate audit documentation, which would facilitate the appropriate  
14 government agencies in performing their responsibilities to assure the delivery of services to  
15 vulnerable populations and to ensure that public monies are being appropriately spent. Further,  
16 he has demonstrated a total lack of respect for licensing requirements: these requirements are  
17 designed to protect the public, in part by setting education and other standards and requirements  
18 which increase the likelihood that licensed practitioners will be competent to provide certain  
19 services to the public.

20 33. Code Section 5000.1 is relevant to the penalty determination in this matter.  
21 The Code Section provides as follows: "Protection of the public shall be the highest priority for  
22 the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary  
23 functions. Whenever the protection of the public is inconsistent with other interests sought to be  
24 promoted, the protection of the public shall be paramount."

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
27 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

28 1. Revoking, suspending, or otherwise imposing discipline upon Certificate

1 Number CPA 21583, issued to Robert R. Grayson;

2                   2.       Ordering Robert R. Grayson to pay the California Board of Accountancy  
3 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
4 Professions Code section 5107;

5                   3.       Taking such other and further action as deemed necessary and proper.

6 DATED: April 10, 2003.

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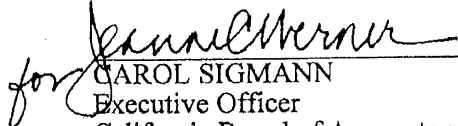
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*for*   
CAROL SIGMANN  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

## GENERALLY ACCEPTED AUDITING STANDARDS

Generally Accepted Auditing Standards ("GAAS") are issued by the American Institute of Certified Public Accountants (AICPA). They are set forth and discussed in *Codification of Statements on Auditing Standards Numbers 1-62*, AICPA, 1989 rev. The sections discussing the standards are referred to as Statements on Auditing Standards ("SAS") and are codified, by "AU" number, in the above-referenced publication.

The ten generally accepted auditing standards are codified in AU § 150.02 and are applicable in the Accusation. Relevant standards are in bold-face type:

AU § 150.02: The generally accepted auditing standards...are as follows:  
General Standards

1. The audit is to be performed by a person or persons having adequate technical training and proficiency as an auditor.
2. In all matters relating to the assignment, an independence in mental attitude is to be maintained by the auditor or auditors.
3. Due professional care is to be exercised in the performance of the audit and the preparation of the report.

### Standards of Field Work

1. The work is to be adequately planned and assistants, if any, are to be properly supervised.
2. A sufficient understanding of the internal control structure is to be obtained to plan the audit and to determine the nature, timing, and extent of tests to be performed.
3. Sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit.

### Standards of Reporting

1. The report shall state whether the financial statements are presented in accordance with generally accepted accounting principles.
2. The report shall identify those circumstances in which such principles have not been consistently observed in the current period in relation to the preceding period.
3. Informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.
4. The report shall either contain an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed...(and the) reasons therefor should be stated...should contain a clear-cut indication of the character of the auditor's work, if any, and the degree of responsibility the auditor is taking.

(b) to active status and the next license expiration date is less than 6 full months, no additional continuing education is required for license renewal.

(c) Once converted to active status, a licensee who engages in financial or compliance auditing of a governmental agency at any time between the date of conversion to active status and the next license expiration date shall complete 6 hours of governmental continuing education as part of each 20 hours of continuing education required under subsection (d). Continuing education in the areas of governmental accounting and auditing shall meet the requirements of Section 87(b).

(f) Once converted to active status, a licensee who engages in audit, review, compilation, or attestation services at any time between the date of conversion to active status and the next license expiration date shall complete 6 hours of continuing education in accounting and auditing as part of each 20 hours of continuing education required under subsection (d). Continuing education in the areas of accounting and auditing shall meet the requirements of Section 87(c).

NOTE Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Section 5028, Business and Professions Code.

#### HISTORY

1. New section filed 7-5-90; operative 7-26-90 (Register 90, No. 36).
2. Amendment of section heading and repealer of subsection (b) filed 6-23-93 as an emergency; operative 6-23-93 (Register 93, No. 26). A Certificate of Compliance must be transmitted to OAL 10-21-93 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6-23-93 order transmitted to OAL 10-18-93 and filed 12-1-93 (Register 93, No. 49).
4. New opening paragraph, amendment of subsection (a) and new subsection (b) filed 10-6-94; operative 11-7-94 (Register 94, No. 40).
5. Change without regulatory effect amending subsection (b) filed 12-28-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 52).
6. Amendment of section heading and section filed 3-28-96; operative 7-1-96 (Register 96, No. 13).
7. Amendment of first paragraph filed 12-17-96; operative 1-1-97 pursuant to Government Code section 11343.4(d) (Register 96, No. 51).
8. Amendment of first paragraph filed 6-16-97, operative 6-30-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25).
9. Amendment filed 6-17-98; operative 7-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 25).
10. Amendment of section heading and section filed 5-9-2000; operative 6-8-2000 (Register 2000, No. 19).
11. Change without regulatory effect amending subsection (a) filed 7-12-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 28).

#### Conversion to Active Status Prior to Renewal.

(a) A licensee who has renewed his/her license in inactive status may convert to active status prior to the next license expiration date by (1) completing 80 hours of continuing education credit as described in Section 88, including the professional conduct and ethics course described in Section 87.7, in the 24 month period prior to converting to active status, (2) applying to the board in writing to convert to active status; and (3) completing any continuing education that is required pursuant to subsection (j) of Section 89. The licensee may not practice public accounting until the application for conversion to active status has been approved.

(b) A licensee who, during the 24 months prior to converting to active status, planned, directed, or conducted substantial portions of field work or reported on financial or compliance audits of a governmental agency shall complete 24 hours of continuing education in governmental accounting and auditing as described in Section 87(b) as part of the 80 hours of continuing education required to convert to active status under subsection (a).

(c) A licensee who, during the 24 months prior to converting to active status, planned, directed, or performed substantial portions of the work or reported on an audit, review, compilation, or attestation service shall complete 24 hours of continuing education in accounting and auditing as described in Section 87(c) as part of the 80 hours of continuing education required to convert to active status under subsection (a).

(d) Once converted to active status, the licensee must complete 20 hours of continuing education as described in Section 88 for each full 6 month period from the date of conversion to active status to the next license expiration date in order to fulfill the continuing education requirement for license renewal. If the time period between the date of change

APPENDIX C

Bus. & Prof. Code 5107

(a) The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found guilty of unprofessional conduct in violation of subdivisions (b), (c), (i), or (j) of Section 5100, or involving a felony conviction in violation of subdivision (a) of Section 5100, or involving fiscal dishonesty in violation of subdivision (h) of Section 5100, to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing.

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the executive officer, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.

(c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested to do so by the executive officer pursuant to subdivision (a). Costs are payable 120 days after the board's decision is final unless otherwise provided for by the administrative law judge or if the time for payment is extended by the board.

(d) The finding of the administrative law judge with regard to cost shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested by the executive officer pursuant to subdivision (a).

(e) The administrative law judge may make a further finding that the amount of reasonable costs awarded shall be reduced or eliminated upon a finding that respondent has demonstrated that he or she cannot pay all or a portion of the costs or that payment of the costs would cause an unreasonable financial hardship which cannot be remedied through a payment plan.

(f) When an administrative law judge makes a finding that costs be waived or reduced, he or she shall set forth the factual basis for his or her finding in the proposed decision.

(g) Where an order for recovery of costs is made and timely payment is not made as directed by the board's decision, the board may enforce the order for payment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any holder of a permit or certificate directed to pay costs.

(h) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms of payment.

(i) All costs recovered under this section shall be deposited in the Accountancy Fund.

(j)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the permit or certificate of any holder who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the permit or certificate of any holder who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for those unpaid costs.

(k) Nothing in this section shall preclude the board from seeking recovery of costs in an order or decision made pursuant to an agreement entered into between the board and the holder of any permit or certificate.



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6 Attorneys for Complainant  
7  
8  
9

10 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2003-13

13 ROBERT R. GRAYSON  
14 1520 O'Farrell Street, #5  
San Francisco, CA 94115  
15 Certificate No. CPA 21583,

**ACCUSATION**

16 Respondent.  
17  
18

19 Complainant alleges:

20 **PARTIES AND JURISDICTION**

21 1. Complainant Carol Sigmann brings this Accusation solely in her official  
22 capacity as the Executive Officer of the California Board of Accountancy, Department of  
23 Consumer Affairs.

24 2. On or about June 20, 1975, the California Board of Accountancy issued  
25 Certificate Number CPA 21583 to Robert R. Grayson, Respondent herein. The Certificate, now  
26 subject to renewal every two years (on February 1) pursuant to Code Section 5070.5, had been  
27  
28

1 renewed, at some time on or before March 1989, in an "inactive"<sup>1</sup> status.<sup>2</sup> The certificate was  
2 inactive from in or before March 1989 until its expiration on January 31, 1992. Since that date,  
3 the Board records have reflected the status of the certificate as follows:

4 A. Expired (in an inactive status) from February 1, 1992 through June  
5 14, 1992.

6 B. Renewed in an "active" status from June 15, 1992 through January  
7 31, 1996.

8 C. Expired from February 1, 1996 through March 1, 2000.

9 D. Renewed effective March 2, 2000, in an "inactive" status, in  
10 which status it remained until its status was converted to "active", effective November 21, 2000,  
11 upon renewal pursuant to the "reentry" provisions of Board Rule 87.1, through January 31,  
12 2002.

13 E. Expired on January 31, 2002, and has not been renewed.

14 3. This Accusation is brought before the California Board of Accountancy  
15 (hereinafter Board), Department of Consumer Affairs, under the authority of Section 5100 of the  
16 Business and Professions Code,<sup>3</sup> which provides, in relevant part, that, after notice and hearing  
17 the board may revoke, suspend or refuse to renew any permit or certificate granted, or may  
18 censure the holder of that permit or certificate, for unprofessional conduct which includes, but is  
19 not limited to, one or any combination of the causes specified therein, including:

20 (b) A violation of Section 498 dealing with false statements or  
21 omissions in obtaining a permit to practice.

---

23 1. The "inactive" status denotes renewal without required continuing education. The  
24 inactive license does not authorize the practice of public accountancy (Board Rule 80).

25 2. The Board's records were transferred to the DCA's centralized computer system in  
26 March 1989 and, as a result, the underlying documentation related to the license history is  
27 unavailable prior to that date.

28 3. All statutory references are to the Business and Professions Code unless otherwise  
indicated. Certain subparagraphs of Section 5100 will be re-lettered, effective January 2003,  
and this pleading will be amended, if necessary, to reflect these changes.

- 1 (c) Dishonesty...(or) gross negligence in the practice of public  
2 accountancy.
- 3 (f) Willful violation of the Accountancy Act or any rule or regulation  
4 promulgated by the board under the authority granted under this  
5 chapter.<sup>4</sup>
- 6 (i) Knowing preparation, publication or dissemination of false,  
7 fraudulent, or materially misleading financial statements, reports,  
8 or information.

9 4. Requirement for Licensure. Code Section 5050 provides that no person  
10 shall engage in the practice of public accountancy in this State unless such person is the holder of  
11 a valid permit to practice public accountancy issued by the board. Code Section 5051 defines the  
12 practice of public accountancy within the meaning and intent of the Accountancy Act.<sup>5</sup>

13 5. Obtaining License by Fraud, Deceit, Misrepresentation. Code Section  
14 498 states that a board may revoke, suspend, or otherwise restrict a license on the ground that the  
15 licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or  
16 by knowingly omitting to state a material fact.

17 6. Misuse of License. Code Section 125 provides in pertinent part that a  
18 Board licensee is guilty of a misdemeanor and subject to the disciplinary provisions of this code  
19 applicable to him when he conspires with a person not so licensed to violate any provision of this  
20 code, or when, with intent to aid or assist that person in violating those provisions does either of  
21 the following:

- 22 (a) Allows his or her license to be used by that person.

---

24 4. Board rules or regulations cited herein are codified in the California Code of  
25 Regulations and will be referenced simply as a Board Rule, e.g., Cal. Code Regs., tit.16, § 5  
26 will be referenced herein as Board Rule 5.

27 5. The definition of the practice of public accountancy includes (but is not limited to)  
28 "holding out" (Section 5051(a)); offering to prospective clients to perform services (Section  
5051(c)); and preparing and certifying reports on audits that are used for filing with any  
governmental agency or for any other purpose (Section 5051(d)).

(b) Acts as his or her agent or partner.

7. Required Observance of Rules. Board Rule 5 requires a licensee to observe Board rules if the licensee is engaged in the types of activities performed by certified public accountants or who renders other professional services which include, but are not limited to, bookkeeping, financial planning, investment planning, tax services and management services.

8. Professional Standards - (Audit) Reports. Section 5062 of the Code provides that a licensee shall issue a report which conforms to professional standards upon completion of a compilation, review or audit of financial statements.

9. Professional Standards (Audits of Financial Statements and Auditor's Reports). Board Rule 58 provides that licensees engaged in the practice of public accountancy must comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards. Standards of practice pertinent to this accusation and the engagements in issue include, without limitation:

A. Generally Accepted Auditing Standards ("GAAS") issued by the American Institute of Certified Public Accountants (AICPA). The ten GAAS (AU §150), which are interrelated, are attached as Appendix A and are discussed in the Statements on Auditing Standards ("SAS"). The SAS are codified, by "AU" number, in the AICPA's *Codification of Statements on Auditing Standards*. Among the SAS relevant herein are:

AU §150 (Ten Standards; Audit Risk; Materiality);

AU §210 (Training and Proficiency of the Independent Auditor);

AU §230 (Due Care);

AU §311 (Planning and Supervision);

AU §316.37 (Documentation of the Auditor's Risk Assessment);

AU §319 (Internal Control) and Appendix A (Control Environment Factors);

AU §326 (Evidential Matter);

AU §339 (Working Papers); and

AU §508 (Auditor's Report).

B. Generally Accepted Government Auditing Standards ("GAS" or

1 "GAGAS"), 1994 revision (the "Yellow Book"), issued by the GAO. In addition to requiring  
2 observance of GAAS (above) for a "Yellow Book" audit, GAGAS provides supplemental  
3 working paper documentation requirements, and requires additional reports, on internal control  
4 and on compliance with laws and regulations. Also relevant herein are laws and regulations  
5 which govern the administration, including the funding, and auditing, of the group homes which  
6 are the subject of the audits performed by Respondent.

7 10. Continuing Education Requirements for Licensure and Active Practice.

8 A. Board Rule 80 provides that the holder of an inactive license shall  
9 not engage in the practice of public accountancy as defined by Code Section 5051, and further  
10 that an inactive license may be converted to active status by meeting the continuing education  
11 requirements in Rule 87.1.

12 B. Board Rule 87.1 details requirements for conversion to active  
13 status prior to the (next scheduled) renewal period. (A copy of Board Rule 87.1 is attached hereto  
14 as Appendix B.) Included among the requirements of Rule 87.1 are specific continuing  
15 education requirements for a licensee who engages in financial or compliance auditing of a  
16 governmental agency, and requirements for a licensee who engages in audit, review, compilation,  
17 or attestation services.

18 C. Board Rule 89 provides documentation and reporting requirements  
19 for a licensee who is required to obtain continuing education as a prerequisite to license renewal  
20 or conversion to "active" status. Board Rule 89(k) provides that the willful making of any false  
21 or misleading statement, in writing, regarding continuing education constitutes cause for  
22 discipline under Code Section 5100(f).

23 D. Board Rule 94 provides that the failure, by a licensee engaged in  
24 active practice, to comply with the Board's continuing education rules constitutes cause for  
25 discipline under Code Section 5100.

26 11. Required Response to Board Inquiry. Board Rule 52 requires a licensee to  
27 respond to an inquiry by the board, including making available all files, working papers and  
28 other documents requested. Failure to respond to a written inquiry within thirty days constitutes

1 a cause for discipline under Code Section 5100(f).

2 12. Pursuant to Code section 118(b), the suspension, expiration, or forfeiture  
3 by operation of law of a license issued by the Board shall not, during any period in which it may  
4 be renewed, restored, reissued, or reinstated, deprive the Board of its authority to institute or  
5 continue a disciplinary proceeding against the licensee upon any ground provided by law or to  
6 enter an order suspending or revoking the license or otherwise taking disciplinary action against  
7 the licensee on any such ground. Code section 5070.6 provides that an expired permit may be  
8 renewed at any time within five years after its expiration upon compliance with certain  
9 requirements.

10 13. Code Section 5107 authorizes the Board's recovery of certain costs which  
11 result from the investigation and prosecution of specified violations of the Accountancy Act. A  
12 copy of Code Section 5107 is attached hereto as Appendix C.

13 **FOR CAUSES FOR DISCIPLINE**

14 **Overview of Relevant Circumstances**

15 14. Respondent's certificate is subject to discipline under Section 5100 on  
16 several bases, among them the status of his license; his departures from professional standards in  
17 the performance of his audit engagements; and his misrepresentations, coupled with his repeated  
18 lack of response, to the Board during its investigation, as set forth in detail below

19 15. Relevant events regarding Respondent's license status are that  
20 Respondent, following a four-year period during which his license was expired (from February  
21 1996 to March 1, 2000), renewed his license in an inactive status. Respondent then "converted"  
22 the license to an active status on November 21, 2000, based upon his attestation to his  
23 completion of required continuing education.<sup>6</sup> The license expired on January 31, 2002, and  
24 has not been renewed.

25 16. Relevant circumstances regarding Respondent's practice during the time  
26 period relevant herein is that his (part-time) practice consisted almost entirely of auditing the  
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6. See Board Rules 80, 87.1 and 89.

1 financial statements (and issuing associated required reports) of certain not-for-profit entities,  
2 audits to be conducted in accordance with auditing standards applicable to governmental entities.  
3 The entities for which Respondent audited the financial statements were six-bed group homes  
4 (for youths): the operators receive public funds, the entities must comply with applicable laws  
5 and regulations, and the audits must be conducted according to government auditing standards.

6 Prior to calendar year 2000, requirements for audited financial statements of not-  
7 for-profit providers receiving federal Foster Care program (Title IV-E of the Social Security Act)  
8 funds had been implemented in California through the Department of Social Services (DSS).  
9 As set forth in greater detail hereinafter, Respondent performed audits of the financial statements  
10 of, and issued auditor's reports for, a number of group homes during time periods when his  
11 license was expired, inactive, or converted to "active" by his unsupported representation that he  
12 had complied with the applicable continuing education requirements. Respondent's performance  
13 of these audits is grossly negligent in each case in that his work contains extreme departures from  
14 applicable professional standards, including the total absence of working papers or audit  
15 documentation to support any of his audit work or his audit opinion.

16 **Respondent's Group Home Audit Engagements**

17 17. **Fiscal Year 1999.** Respondent performed audits of the financial  
18 statements of, and issued auditor's reports for, a number of group homes for the fiscal year ended  
19 December 31, 1999. The number of entities is known to Respondent but not to Complainant.  
20 Among the entities audited were The House of Biggs, Inc. and I.C. Change, Inc. Respondent  
21 issued reports related to these engagements in or about April and May of 2000. Respondent  
22 performed these engagements during a period when his license was expired or inactive.  
23 Respondent also entered agreements with other clients to perform audit work during the period  
24 when his license was either expired or inactive. Respondent has no working papers for any of  
25 these audit engagements he performed.

26 18. **Fiscal Year 2000.** Respondent performed audits of the financial  
27 statements of at least twenty-one (21) not-for-profit entities (group homes) for the fiscal year  
28 ended December 31, 2000. The subject entities are:

1 Aim to Please; Allum's House, Inc.; Allum's Science Options, Inc.; Another Concept,  
2 Inc.; Another Option, Inc.; Eagle Eye Children's Home, Inc.; IC Change, Inc.; JR's North  
3 Star, Inc.; L&L Group Homes Inc.; Le Care Children's Home, Inc.; Lettia Center for  
4 Hope, Inc.; Moore's Metamorphosis, Inc.; National Organization Against Gangs, Inc.;  
5 Nettle's, Inc.; North Oakland Boys Development Center; Oakland Youth Services, Inc.;  
6 Steele's Reeducation Center, Inc.; Tender Loving Care Providers, Inc.; The House of  
7 Biggs, Inc.; We Care Connection Center, Inc.; and With Loving Care, Inc.

8 A. Twenty-one (21) Independent Auditor's Reports, and twenty-one  
9 (21) *Reports on Compliance and Reports on Internal Control*, all performed by Respondent,  
10 were submitted, as part of the Foster Care rate application process, to DSS in connection with FY  
11 2001/2002 applications. All of these reports were signed by Respondent and were dated between  
12 April and September, 2001. These Reports referenced, in each instance, a financial statement  
13 audit performed for the subject non-profit for the fiscal year ending December 31, 2000.

14 B. Respondent has no working papers for any of these twenty-one  
15 audit engagements he performed.

16 C. The Financial Audits & Investigations Bureau (FAIB) of the DSS  
17 submitted a complaint to the Board regarding certain features of the subject reports, as well as  
18 the fact that Respondent was either untimely in his response to their requests for additional  
19 information or documentation, or that, in most cases, he failed to respond at all. In addition,  
20 FAIB forwarded copies of three Independent Auditor's Reports (related to three of the twenty-  
21 one non-profits referenced above). Respondent's reports expressed his auditor's opinion on the  
22 financial statements using confusing and conflicting language regarding disclaimers of opinion  
23 or qualified opinions.

24 D. Respondent performed certain of these engagements after his  
25 license was placed in an active status pursuant to his false certification that he had complied with  
26 continuing education requirements.

27 19. **Fiscal Year 2001.** An auditor's report and a compliance and internal  
28 control report, both issued for The House of Biggs, Inc. for the year ended December 31, 2001,



1 were prepared on Respondent's letterhead, dated, and signed with his name. Although both were  
2 dated June 2001, the date should have been June, 2002. (Also, the report dates apparently  
3 correctly referenced within the body of the respective reports are June 2002, not June 2001.<sup>7</sup>)

4 Respondent's license expired February 1, 2002. Respondent maintains that,  
5 while he performed all of the work for the audit engagement, including preparing the audit  
6 documentation, another unidentified person, allegedly a CPA, actually signed Respondent's  
7 name to the reports. Respondent has represented that the reports would be re-filed at the DSS  
8 with the responsible CPA appropriately identified. Respondent, although he performed all of the  
9 audit work underlying these reports, and although he testified that he has the working papers for  
10 this engagement, has no working papers for the engagement.

11 20. Incorporating by reference the matters asserted in paragraphs 17 through 19,  
12 Respondent's license is subject to discipline for his performance of each of these engagements,  
13 in that his conduct evidences, in each instance, extreme departures from professional standards,  
14 as follows:

15 A. His auditor's reports state that he conducted his audit of the  
16 respective financial statements in accordance with GAAS and GAS when, in truth and in fact, his  
17 performance of the subject engagements, including the reports he issued, demonstrated extreme  
18 departures from professional standards.

19 B. He failed to document his work in accordance with professional  
20 standards;

21 C. He failed to document his assessment of internal controls.

22 D. He failed to test for compliance with laws and regulations  
23 applicable to group homes, and to document same;

24 E. He failed to assess the audit risk, failed to establish a materiality  
25 level for his audits, and failed to document same;

26 F. He failed to issue required reports which comply with professional

27 \_\_\_\_\_  
28 7. The financial statements which accompanied the reports referenced fiscal year 2000 on  
one page and 2001 on others.

1 standards (not applicable to 2001 engagement).

2 G. Respondent's reports referenced management letters he prepared  
3 for all twenty-one entities describing reportable conditions, of which two rose to the level of  
4 reporting material weaknesses.<sup>8</sup> However, the reportable conditions/material weaknesses were  
5 not described in the reports; the management letters were not timely, if ever, prepared, and the  
6 management letters were not provided to the DSS as requested (not applicable to 2001  
7 engagement).

8 H. Respondent failed to retain a record of his audit work in the form  
9 of working papers.

10 21. Incorporating by reference the matters alleged in paragraphs 15 through  
11 20, Respondent's license is subject to disciplinary action for multiple violations of Code section  
12 5100(c) for gross negligence in the practice of public accountancy.

13 22. Incorporating by reference the matters alleged in paragraphs 15 through  
14 20, Respondent's license is subject to disciplinary action under Code section 5100(i) in that he  
15 knowingly prepared and filed false or materially misleading financial reports or information as a  
16 result of his audit work. These reports are relied upon by government agencies in the  
17 administration of public programs which serve a vulnerable population and which are funded by  
18 public monies.

19 23. Incorporating by reference the matters alleged in paragraphs 15 through  
20 20, Respondent's license is subject to disciplinary action under Code section 5062 in  
21 conjunction with Code section 5100 in that the reports he issued fail to comply with professional  
22 standards.

23 24. Incorporating by reference the matters alleged in paragraphs 15 through  
24 20, Respondent's license is subject to disciplinary action under Board rule 58 in conjunction  
25 with Code section 5100(f) in that he failed to observe applicable professional standards in his  
26 performance of the subject engagements.

27 \_\_\_\_\_  
28 8. Respondent referenced material weaknesses for two of the organizations: L&L Group  
Homes, Inc., and National Organization Against Gangs.

1                   **Respondent's Fraudulent License Renewal/Unlicensed Practice/Related Violations**

2                   25.     Incorporating by reference the matters set forth in paragraphs 2 and 15,  
3 Respondent's license is subject to discipline in that he, in or about November 2000, submitted an  
4 application to the Board under penalty of perjury for conversion of his "inactive" status license to  
5 "active" status pursuant to the provisions of Board Rule 87.1. In order to renew his license in an  
6 active status, Respondent was required to have completed, in the 24-month period prior to  
7 converting to active status, 80 hours of required continuing education credit.<sup>9</sup> Respondent's  
8 application listed courses claiming credit for a total of 92 hours to meet these requirements.  
9 However, documentation for the 92 hours of course work, required to be obtained and retained  
10 by Respondent pursuant to Board Rule 89, was not produced. The Board received verification  
11 of only 25 hours of qualifying continuing education.

12                   26.     Incorporating by reference the matters set forth in paragraphs 2, 15  
13 through 19, and 25, Respondent's license is subject to discipline in that he secured his "active"  
14 license, without which he was not permitted to practice, by fraud and/or by deceit and/or through  
15 the knowing misrepresentation of a material fact, under Code Section 5100(b) in conjunction  
16 with Code Section 498.

17                   27.     Incorporating by reference the matters alleged in paragraphs 2, 15 through  
18 19, and 25, cause for discipline exists under Board Rule 94 in conjunction with Code Section  
19 5100(f) in that the Respondent was engaged in the practice of public accountancy without a valid  
20 license as provided in the requirements found in Board Rules 87.1 and 89.

21                   28     Incorporating by reference the matters alleged in paragraph 2, 15 through  
22 19, and 25, cause for discipline exists under Code Sections 5050 and 5051 in conjunction with  
23 Code Section 5100(f) in that the Respondent was engaged in the practice of public accountancy  
24 without a valid license; during the respective time periods, his license was either inactive,  
25 "renewed" by fraud, or expired.

26                   29.     Incorporating by reference the matters alleged in paragraph 2 and 19,  
27 \_\_\_\_\_

28                   9. Respondent was also required to take certain accounting and auditing courses as  
provided by Board Rule 87.1.

1 cause for discipline exists under Code Section 125 in conjunction with Code Section 5100(f) in  
2 that the Respondent either allowed his (invalid) license to be used by another, or acted as the  
3 agent or partner of an unlicensed person.

4  
5 **Respondent's Dishonesty In Response To Board Inquiry and**  
6 **Respondent's Failure to Respond**

7 30. Respondent is subject to disciplinary action under section 5100(f) in  
8 conjunction with Rule 52, and as a matter of general unprofessional conduct under Section 5100,  
9 in that he has been dishonest in his responses to Board inquiries and that he has failed to respond,  
10 including failing to produce working papers and other requested documentation to both the DSS  
11 and the Board, after repeatedly promising to do so. Among instances of unprofessional conduct  
12 warranting the imposition of discipline are the following:

13 Respondent has repeatedly lied to Board representatives during this investigation  
14 and has failed to produce requested records on numerous occasions, including before, during, and  
15 after an investigative hearing. Respondent has, for example, claimed that working papers for two  
16 audit engagements were confiscated at the airport and that they were subsequently recovered;  
17 then recanted, saying they had never been at the airport but had previously been stolen from his  
18 car; then changed the audit year for which the stolen working papers were prepared; then claimed  
19 that the working papers for all of his engagements, not just two, and not just for one year, had  
20 been stolen. He testified that he had lied in order to give himself time to prepare and produce  
21 "new" working papers for the engagements under investigation. He failed to produce any  
22 working papers whatsoever in support of his audit opinions. He failed to produce underlying  
23 documentation that he had obtained the requisite continuing education for conversion of his  
24 license to active status. He also lied about the time periods during which he had practiced  
25 without a valid license, or practiced under the license obtained by fraud and deceit.

26 **OTHER MATTERS**

27 31. Pursuant to Code section 5107, it is requested that the administrative law  
28 judge, as part of the proposed decision in this proceeding, direct respondent to pay to the Board

1 all reasonable costs of investigation and prosecution in this case, including, but not limited to,  
2 attorneys' fees.

3 32. It is charged, in aggravation of penalty, that respondent has personally  
4 benefitted from his audit engagements while completely failing in his duty to produce competent  
5 audit reports, supported by adequate audit documentation, which would facilitate the appropriate  
6 government agencies in performing their responsibilities to assure the delivery of services to  
7 vulnerable populations and to ensure that public monies are being appropriately spent. Further,  
8 he has demonstrated a total lack of respect for licensing requirements: these requirements are  
9 designed to protect the public, in part by setting education and other standards and requirements  
10 which increase the likelihood that licensed practitioners will be competent to provide certain  
11 services to the public.

12 **PRAYER**

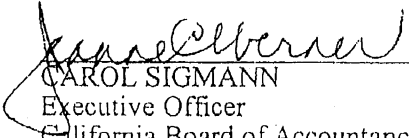
13 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
14 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

15 1. Revoking, suspending, or otherwise imposing discipline upon Certificate  
16 Number CPA 21583, issued to Robert R. Grayson;

17 2. Ordering Robert R. Grayson to pay the California Board of Accountancy  
18 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
19 Professions Code section 5107;

20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: December 24 2002

22  
23   
24 CAROL SIGMANN  
25 Executive Officer  
26 California Board of Accountancy  
27 Department of Consumer Affairs  
28 State of California  
Complainant

## GENERALLY ACCEPTED AUDITING STANDARDS

Generally Accepted Auditing Standards ("GAAS") are issued by the American Institute of Certified Public Accountants (AICPA). They are set forth and discussed in *Codification of Statements on Auditing Standards Numbers 1-62*, AICPA, 1989 rev. The sections discussing the standards are referred to as Statements on Auditing Standards ("SAS") and are codified, by "AU" number, in the above-referenced publication.

The ten generally accepted auditing standards are codified in AU § 150.02 and are applicable in the Accusation. Relevant standards are in bold-face type:

AU § 150.02: The generally accepted auditing standards...are as follows:  
General Standards

1. The audit is to be performed by a person or persons having adequate technical training and proficiency as an auditor.
2. In all matters relating to the assignment, an independence in mental attitude is to be maintained by the auditor or auditors.
3. Due professional care is to be exercised in the performance of the audit and the preparation of the report.

### Standards of Field Work

1. The work is to be adequately planned and assistants, if any, are to be properly supervised.
2. A sufficient understanding of the internal control structure is to be obtained to plan the audit and to determine the nature, timing, and extent of tests to be performed.
3. Sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit.

### Standards of Reporting

1. The report shall state whether the financial statements are presented in accordance with generally accepted accounting principles.
2. The report shall identify those circumstances in which such principles have not been consistently observed in the current period in relation to the preceding period.
3. The report shall either contain an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed... (and the) reasons therefor should be stated... should contain a clear-cut indication of the character of the auditor's work, if any, and the degree of responsibility the auditor is taking.
4. The report shall either contain an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed... (and the) reasons therefor should be stated... should contain a clear-cut indication of the character of the auditor's work, if any, and the degree of responsibility the auditor is taking.

(b) to active status and the next license expiration date is less than 6 full months, no additional continuing education is required for license renewal.

(e) Once converted to active status, a licensee who engages in financial or compliance auditing of a governmental agency at any time between the date of conversion to active status and the next license expiration date shall complete 6 hours of governmental continuing education as part of each 20 hours of continuing education required under subsection (d). Continuing education in the areas of governmental accounting and auditing shall meet the requirements of Section 87(b).

(f) Once converted to active status, a licensee who engages in audit, review, compilation, or attestation services at any time between the date of conversion to active status and the next license expiration date shall complete 6 hours of continuing education in accounting and auditing as part of each 20 hours of continuing education required under subsection (d). Continuing education in the areas of accounting and auditing shall meet the requirements of Section 87(c).

NOTE: Authority cited: Sections 5010 and 5027, Business and Professions Code. Reference: Section 5028, Business and Professions Code.

# HISTORY

1. New section filed 7-5-90, operative 7-26-90 (Register 90, No. 36).
2. Amendment of section heading and repealer of subsection (b) filed 6-23-93 as an emergency; operative 6-23-93 (Register 93, No. 26). A Certificate of Compliance must be transmitted to OAL 10-21-93 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6-23-93 order transmitted to OAL 10-18-93 and filed 12-1-93 (Register 93, No. 49).
4. New opening paragraph, amendment of subsection (a) and new subsection (b) filed 10-6-94, operative 11-7-94 (Register 94, No. 40).
5. Change without regulatory effect amending subsection (b) filed 12-28-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 52).
6. Amendment of section heading and section filed 3-28-96; operative 7-1-96 (Register 96, No. 13).
7. Amendment of first paragraph filed 12-17-96; operative 1-1-97 pursuant to Government Code section 11343.4(d) (Register 96, No. 51).
8. Amendment of first paragraph filed 6-16-97; operative 6-30-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 25).
9. Amendment filed 6-17-98; operative 7-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 25).
10. Amendment of section heading and section filed 5-9-2000; operative 6-8-2000 (Register 2000, No. 19).
11. Change without regulatory effect amending subsection (a) filed 7-12-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 28).

## Conversion to Active Status Prior to Renewal.

A licensee who has renewed his/her license in inactive status may convert to active status prior to the next license expiration date by completing 80 hours of continuing education credit as described in Section 88, and by the professional conduct and ethics course described in Section 87(c) in the 24-month period prior to converting to active status. The licensee must be bonded and waiting to convert to active status and be completing any continuing education that is required pursuant to subsection (f) of Section 89. The licensee may not practice public accounting until the application for conversion to active status has been approved.

A licensee who during the 24 months prior to converting to active status has completed the requirements of subsection (a) of Section 88, and

has completed 24 hours of continuing education in governmental accounting and auditing as described in Section 87(b) as part of the 80 hours of continuing education required to convert to active status under subsection (a),

(c) A licensee who, during the 24 months prior to converting to active status, planned, directed, or performed substantial portions of the work or reported on an audit, review, compilation, or attestation service shall complete 24 hours of continuing education in accounting and auditing as described in Section 87(c) as part of the 80 hours of continuing education required to convert to active status under subsection (a).

(d) Once converted to active status, the licensee must complete 20 hours of continuing education as described in Section 88 for each full 6-month period from the date of conversion to active status to the next license expiration date in order to fulfill the continuing education requirement for license renewal. If the time period between the date of change

APPENDIX C

Bus. & Prof. Code 5107

- (a) The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found guilty of unprofessional conduct in violation of subdivisions (b), (c), (i), or (j) of Section 5100, or involving a felony conviction in violation of subdivision (a) of Section 5100, or involving fiscal dishonesty in violation of subdivision (h) of Section 5100, to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing.
- (b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the executive officer, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.
- (c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested to do so by the executive officer pursuant to subdivision (a). Costs are payable 120 days after the board's decision is final unless otherwise provided for by the administrative law judge or if the time for payment is extended by the board.
- (d) The finding of the administrative law judge with regard to cost shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested by the executive officer pursuant to subdivision (a).
- (e) The administrative law judge may make a further finding that the amount of reasonable costs awarded shall be reduced or eliminated upon a finding that respondent has demonstrated that he or she cannot pay all or a portion of the costs or that payment of the costs would cause an unreasonable financial hardship which cannot be remedied through a payment plan.
- (f) When an administrative law judge makes a finding that costs be waived or reduced, he or she shall set forth the factual basis for his or her finding in the proposed decision.
- (g) Where an order for recovery of costs is made and timely payment is not made as directed by the board's decision, the board may enforce the order for payment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any holder of a permit or certificate directed to pay costs.
- (h) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms of payment.
- (i) All costs recovered under this section shall be deposited in the Accountancy Fund.
- (j)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the permit or certificate of any holder who has failed to pay all of the costs ordered under this section.
- (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the permit or certificate of any holder who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for those unpaid costs.
- (k) Nothing in this section shall preclude the board from seeking recovery of costs in an order or decision made pursuant to an agreement entered into between the board and the holder of any permit or certificate.